



February 20, 2004

ENGROSSED HOUSE BILL No. 1245

DIGEST OF HB 1245 (Updated February 19, 2004 10:48 am - DI 106)

Citations Affected: IC 35-46; noncode.

Synopsis: Crime victims; neglect of dependent. Makes neglect of a dependent a Class A felony instead of a Class D felony if the neglect results in the death of a dependent who is less than 14 years of age and is committed by a person at least 18 years of age. Makes contributing to delinquency a Class C felony instead of a Class A misdemeanor if the person furnishes alcohol or a controlled substance to a minor and consumption of the alcohol or drug is the proximate cause of the death of any person.

Effective: July 1, 2004.

Van Haaften, Austin

(SENATE SPONSORS — BRODEN, BRAY)

January 15, 2004, read first time and referred to Committee on Judiciary.
January 26, 2004, amended, reported — Do Pass; referred to Committee on Ways and Means pursuant to Rule 127.
January 29, 2004, referral to Committee on Ways and Means pursuant to Rule 127 withdrawn.
February 2, 2004, read second time, amended, ordered engrossed.
February 3, 2004, engrossed.
February 5, 2004, read third time, passed. Yeas 92, nays 3.
SENATE ACTION
February 10, 2004, read first time and referred to Committee on Judiciary.
February 19, 2004, amended, reported favorably — Do Pass.

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EH 1245—LS 6810/DI 69+



February 20, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1245

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-46-1-4, AS AMENDED BY P.L.133-2000,
2 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 4. (a) A person having the care of a dependent,
4 whether assumed voluntarily or because of a legal obligation, who
5 knowingly or intentionally:

6 (1) places the dependent in a situation that endangers the
7 dependent's life or health;
8 (2) abandons or cruelly confines the dependent;
9 (3) deprives the dependent of necessary support; or
10 (4) deprives the dependent of education as required by law;
11 commits neglect of a dependent, a Class D felony.

12 (b) However, the offense is:

13 (1) a Class C felony if it is committed under subsection (a)(1),
14 (a)(2), or (a)(3) and results in bodily injury;
15 (2) a Class B felony if it is committed under subsection (a)(1),
16 (a)(2), or (a)(3) and results in serious bodily injury; ~~and~~
17 (3) **a Class A felony if it is committed under subsection (a)(1),**

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(a)(2), or (a)(3) by a person at least eighteen (18) years of age and results in the death of a dependent who is less than fourteen (14) years of age; and

(4) a Class C felony if it is committed under subsection (a)(2) and consists of cruel or unusual confinement or abandonment.

(c) It is a defense to a prosecution based on an alleged act under this section that:

(1) the accused person left a dependent child who was, at the time the alleged act occurred, not more than thirty (30) days of age with an emergency medical provider who took custody of the child under IC 31-34-2.5 when:

(A) the prosecution is based solely on the alleged act of leaving the child with the emergency medical services provider; and

(B) the alleged act did not result in bodily injury or serious bodily injury to the child; or

(2) the accused person, in the legitimate practice of his religious belief, provided treatment by spiritual means through prayer, in lieu of medical care, to his dependent.

(d) Except for property transferred or received:

(1) under a court order made in connection with a proceeding under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5 or IC 31-6-5 before their repeal); or

(2) under IC 35-46-1-9(b);

a person who transfers or receives any property in consideration for the termination of the care, custody, or control of a person's dependent child commits child selling, a Class D felony.

SECTION 2. IC 35-46-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) A person at least eighteen (18) years of age ~~or older~~ who knowingly or intentionally encourages, aids, induces, or causes a person ~~under less than~~ eighteen (18) years of age to commit an act of delinquency (as defined by IC 31-37-1 or IC 31-37-2) commits contributing to delinquency, a Class A misdemeanor.

(b) However, ~~the~~ an offense described in subsection (a) is a Class C felony if:

(1) the:

(A) person is at least twenty-one (21) years of age and knowingly or intentionally furnishes:

(i) an alcoholic beverage to a person less than eighteen (18) years of age in violation of IC 7.1-5-7-8 when the person knew or reasonably should have known that the

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1 person was less than eighteen (18) years of age; or
 2 (ii) a controlled substance (as defined in IC 35-48-1-9) or
 3 a drug (as defined in IC 9-13-2-49.1) in violation of
 4 Indiana law; and

5 (B) consumption, ingestion, or use of the alcoholic
 6 beverage, controlled substance, or drug is the proximate
 7 cause of the death of any person; or

8 (2) the person is at least eighteen (18) years of age and
 9 knowingly or intentionally encourages, aids, induces, or causes a
 10 person less than eighteen (18) years of age to commit an act that
 11 would be a felony if committed by an adult under any of the
 12 following:

13 (1) (A) IC 35-48-4-1.

14 (2) (B) IC 35-48-4-2.

15 (3) (C) IC 35-48-4-3.

16 (4) (D) IC 35-48-4-4.

17 (5) (E) IC 35-48-4-4.5.

18 (6) (F) IC 35-48-4-4.6. or

19 (7) (G) IC 35-48-4-5.

20 SECTION 3. [EFFECTIVE JULY 1, 2004] IC 35-46-1-4 and
 21 IC 35-46-1-8, both as amended by this act, apply only to offenses
 22 committed after June 30, 2004.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1245, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 4.

Page 5, delete lines 1 through 9.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1245 as introduced.)

LAWSON L, Chair

Committee Vote: yeas 9, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1245 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 35-40-6-4, AS ADDED BY P.L.139-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) **As used in this section, "identifying information" has the meaning set forth in IC 35-43-5-1.**

(b) A prosecuting attorney or a victim assistance program shall do the following:

(1) Inform a victim that the victim may be present at all public stages of the criminal justice process to the extent that:

(A) the victim's presence and statements do not interfere with a defendant's constitutional rights; and

(B) there has not been a court order restricting, limiting, or prohibiting attendance at the criminal proceedings.

(2) Timely notify a victim of all criminal justice hearings and proceedings that are scheduled for a criminal matter in which the victim was involved.

(3) Promptly notify a victim when a criminal court proceeding has been rescheduled or canceled.

(4) Obtain an interpreter or translator, if necessary, to advise a victim of the rights granted to a victim under the law.

(5) Coordinate efforts of local law enforcement agencies that are designed to promptly inform a victim after an offense occurs of the availability of, and the application process for, community services for victims and the families of victims, including information concerning services such as the following:

(A) Victim compensation funds.

(B) Victim assistance resources.

(C) Legal resources.

(D) Mental health services.

(E) Social services.

(F) Health resources.

(G) Rehabilitative services.

(H) Financial assistance services.

(I) Crisis intervention services.

(J) Transportation and child care services to promote the participation of a victim or a member of the victim's immediate family in the criminal proceedings.

(6) Inform the victim that the court may order a defendant

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convicted of the offense involving the victim to pay restitution to the victim under IC 35-50-5-3.

(7) Upon request of the victim, inform the victim of the terms and conditions of release of the person accused of committing a crime against the victim.

(8) Upon request of the victim, give the victim notice of the criminal offense for which:

(A) the defendant accused of committing the offense against the victim was convicted or acquitted; or

(B) the charges were dismissed against the defendant accused of committing the offense against the victim.

(9) In a county having a victim-offender reconciliation program (VORP), provide an opportunity for a victim, if the accused person or the offender agrees, to:

(A) meet with the accused person or the offender in a safe, controlled environment;

(B) give to the accused person or the offender, either orally or in writing, a summary of the financial, emotional, and physical effects of the offense on the victim and the victim's family; and

(C) negotiate a restitution agreement to be submitted to the sentencing court for damages incurred by the victim as a result of the offense.

(10) Assist a victim in preparing verified documentation necessary to obtain a restitution order under IC 35-50-5-3.

(11) Advise a victim of other rights granted to a victim under the law.

(c) Except as provided in subsection (d), a prosecuting attorney shall not disclose victim identifying information during discovery and other proceedings.

(d) For good cause shown, the court may order the disclosure of victim identifying information. The court may impose reasonable restrictions on the disclosure of victim identifying information, including a requirement that the identifying information not be disclosed to the defendant."

Page 2, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 3. IC 35-46-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. **(a)** A person **at least** eighteen (18) years of age ~~or older~~ who knowingly or intentionally encourages, aids, induces, or causes a person ~~under less than~~ eighteen (18) years of age to commit an act of delinquency (as defined by IC 31-37-1 or IC 31-37-2) commits contributing to delinquency, a Class A misdemeanor.

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(b) However, ~~the~~ an offense described in subsection (a) is a Class C felony if:

(1) the:

(A) person knowingly or intentionally furnishes:

(i) an alcoholic beverage to a person less than eighteen (18) years of age in violation of IC 7.1-5-7-8 when the person knew or reasonably should have known that the person was less than eighteen (18) years of age; or

(ii) a controlled substance (as defined in IC 35-48-1-9) or a drug (as defined in IC 9-13-2-49.1) in violation of Indiana law; and

(B) consumption, ingestion, or use of the alcoholic beverage, controlled substance, or drug is the proximate cause of the death of any person; or

(2) the person is at least eighteen (18) years of age and knowingly or intentionally encourages, aids, induces, or causes a person less than eighteen (18) years of age to commit an act that would be a felony if committed by an adult under **any of the following:**

(+) (A) IC 35-48-4-1.

(2) (B) IC 35-48-4-2.

(3) (C) IC 35-48-4-3.

(4) (D) IC 35-48-4-4.

(5) (E) IC 35-48-4-4.5.

(6) (F) IC 35-48-4-4.6. or

(7) (G) IC 35-48-4-5."

Page 2, line 28, delete "," and insert "**and IC 35-46-1-8, both**".

Page 2, line 29, delete "applies" and insert "**apply**".

Re-number all SECTIONS consecutively.

(Reference is to HB 1245 as printed January 30, 2004.)

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1245, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17.

Delete page 2.

Page 3, delete lines 1 through 12.

Page 4, line 25, after "person" insert "**is at least twenty-one (21) years of age and**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1245 as reprinted February 3, 2004.)

BRAY, Chairperson

Committee Vote: Yeas 7, Nays 0.

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